

claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the 10th day of May 1872, that is granted a waiver under section 28f of this title, and until a patent has been issued therefor, not less than \$100 worth of labor shall be performed or improvements made during each year. On all claims located prior to the 10th day of May 1872, \$10 worth of labor shall be performed or improvements made each year, for each one hundred feet in length along the vein until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several coowners to contribute his proportion of the expenditures required hereby, the coowners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures. The period within which the work required to be done annually on all unpatented mineral claims located since May 10, 1872, including such claims in the Territory of Alaska, shall commence at 12 o'clock meridian on the 1st day of September succeeding the date of location of such claim.

Where a person or company has or may run a tunnel for the purposes of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since May 10, 1872; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by this section. On all such valid claims the annual period ending December 31, 1921, shall continue to 12 o'clock meridian July 1, 1922.

(R.S. §2324; Feb. 11, 1875, ch. 41, 18 Stat. 315; Jan. 22, 1880, ch. 9, §2, 21 Stat. 61; Aug. 24, 1921, ch. 84, 42 Stat. 186; Aug. 23, 1958, Pub. L. 85-736, §1, 72 Stat. 829; Aug. 10, 1993, Pub. L. 103-66, title X, §10105(b), 107 Stat. 406.)

#### CODIFICATION

R.S. §2324 derived from act May 10, 1872, ch. 152, §5, 17 Stat. 92.

#### AMENDMENTS

1993—Pub. L. 103-66 inserted “that is granted a waiver under section 28f of this title,” after “On each claim located after the 10th day of May 1872.”

1958—Pub. L. 85-736 changed period for doing annual assessment work on unpatented mineral claims, substituting “1st day of September” for “1st day of July”.

#### ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

#### ASSESSMENT WORK YEARS, 1957-58 AND 1958-59

Section 2 of Pub. L. 85-736 provided that the period commencing in 1957 for the performance of annual assessment work under this section shall end at 12 o'clock meridian on the 1st day of July 1958, and the period commencing in 1958 for the performance of such annual assessment work shall commence at 12 o'clock meridian on the 1st day of July 1958, and shall continue to 12 o'clock meridian on Sept. 1, 1959.

#### CROSS REFERENCES

Alaska, annual labor or improvements on mining claims, see section 49e of this title.

Extension of time for annual assessment work on lands containing valuable source material, see note under section 541a of this title.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Temporary deferment of annual assessment work on mining claims, see section 28b et seq. of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 28-1, 28b, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 102, 541b of this title; title 16 section 460mm-1; title 25 section 640d-10; title 43 sections 1712, 1714, 1732; title 50 App. section 565.

### § 28-1. Inclusion of certain surveys in labor requirements of mining claims; conditions and restrictions

The term “labor”, as used in the third sentence of section 28 of this title, shall include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed in the county office in which the claim is located which sets forth fully (a) the location of the work performed in relation to the point of discovery and boundaries of the claim, (b) the nature, extent, and cost thereof, (c) the basic findings therefrom, and (d) the name, address, and professional background of the person or persons conducting the work. Such surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each such survey shall be nonrepetitive of any previous survey on the same claim.

(Pub. L. 85-876, §1, Sept. 2, 1958, 72 Stat. 1701.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-2 of this title; title 16 section 460mm-1; title 43 section 1744.

### § 28-2. Definitions

As used in section 28-1 of this title,

(a) The term “geological surveys” means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(b) The term “geochemical surveys” means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they

relate to the search for and discovery of mineral deposits;

(c) The term “geophysical surveys” means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

(d) The term “qualified expert” means an individual qualified by education or experience to conduct geological, geochemical or geophysical surveys, as the case may be.

(Pub. L. 85-876, §2, Sept. 2, 1958, 72 Stat. 1701.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 460mm-1.

### § 28a. Omitted

#### CODIFICATION

Section, act June 29, 1950, ch. 404, 64 Stat. 275, provided for extension of time of annual assessment work, on mining claims in the United States, including Alaska, for period commencing July 1, 1949, until 12 o'clock noon Oct. 1, 1950, and also provided for commencement of assessment work or improvements required for year ending 12 o'clock noon July 1, 1951, immediately following 12 o'clock noon July 1, 1950. See sections 28b to 28e of this title.

### § 28b. Annual assessment work on mining claims; temporary deferment; conditions

The performance of not less than \$100 worth of labor or the making of improvements aggregating such amount, which labor or improvements are required under the provisions of section 28 of this title to be made during each year, may be deferred by the Secretary of the Interior as to any mining claim or group of claims in the United States upon the submission by the claimant of evidence satisfactory to the Secretary that such mining claim or group of claims is surrounded by lands over which a right-of-way for the performance of such assessment work has been denied or is in litigation or is in the process of acquisition under State law or that other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of claims or to gain access to the boundaries thereof.

(June 21, 1949, ch. 232, §1, 63 Stat. 214.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28c, 28d, 28e of this title; title 16 section 460mm-1.

### § 28c. Length and termination of deferment

The period for which said deferment may be granted shall end when the conditions justifying deferment have been removed: *Provided*, That the initial period shall not exceed one year but may be renewed for a further period of one year if justifiable conditions exist: *Provided further*, That the relief available under sections 28b to 28e of this title is in addition to any relief available under any other Act of Congress with respect to mining claims.

(June 21, 1949, ch. 232, §2, 63 Stat. 215.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28d, 28e of this title; title 16 section 460mm-1.

### § 28d. Performance of deferred work

All deferred assessment work shall be performed not later than the end of the assessment year next subsequent to the removal or cessation of the causes for deferment or the expiration of any deferments granted under sections 28b to 28e of this title and shall be in addition to the annual assessment work required by law in such year.

(June 21, 1949, ch. 232, §3, 63 Stat. 215.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28b, 28c, 28e of this title; title 16 section 460mm-1.

### § 28e. Recordation of deferment

Claimant shall file or record or cause to be filed or recorded in the office where the notice or certificate of location of such claim or group of claims is filed or recorded, a notice to the public of claimant's petition to the Secretary of the Interior for deferment under sections 28b to 28e of this title, and of the order or decision disposing of such petition.

(June 21, 1949, ch. 232, §4, 63 Stat. 215.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28b, 28c, 28d of this title; title 16 section 460mm-1.

### § 28f. Fee

#### (a) Claim maintenance fee

The holder of each unpatented mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States, whether located before or after August 10, 1993, shall pay to the Secretary of the Interior, on or before August 31 of each year, for years 1994 through 1998, a claim maintenance fee of \$100 per claim. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28-28e)<sup>1</sup> and the related filing requirements contained in section 1744(a) and (c) of title 43.

#### (b) Time of payment

The claim maintenance fee payable pursuant to subsection (a) of this section for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim maintenance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under section 28g of this title shall be payable not later than 90 days after the date of location.

#### (c) Oil shale claims subject to claim maintenance fees under Energy Policy Act of 1992

This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102-486; 106 Stat. 3111; 30 U.S.C. 242).

#### (d) Waiver

(1) The claim maintenance fee required under this section may be waived for a claimant who

<sup>1</sup> See References in Text note below.